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Memorandum

To: Members of the Administrative Rules Review Committee

From: Christine R. Gilbert

Date: July 26, 2013

Re: Relevant statutory provisions related to psychology licensing and dyslexia

This memo compiles the most relevant statutory provisions from Title 58, Chapter 61, Psychologist Licensing Act (Act), that relate to the Committee's discussion of psychology licensing and the treatment and diagnosis of dyslexia.

Prohibited Conduct:

Title 58, Chapter 61, Psychologist Licensing Act, makes it unlawful for an individual to engage in the practice of psychology without a license, unless the individual is expressly exempted from the licensure requirement under Section 58-1-307 or Section 58-61-307(2). Utah Code §§ 58-61-301(1)(a); 58-61-501(1).

Relevant Definitions:

To understand the scope of the Act's licensure requirement, it is essential to understand the definition of the "practice of psychology." The Act's definition of the "practice of psychology" incorporates two other definitions: the "practice of mental health therapy" and "mental illness." More precisely, the practice of psychology encompasses the practice of mental health therapy, and the practice of mental health therapy only occurs if the provider is engaged in the treatment or prevention of a mental illness.

The statutory definition of each term is provided, below. Each of these defined terms is highlighted in bold to help illustrate how the definitions fit together.

1. The Practice of Psychology

"Practice of psychology" includes:

- a. the **practice of mental health therapy** by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional psychological principles, methods, and procedures for the purpose of preventing, treating, or eliminating **mental** or emotional **illness** or dysfunction, the symptoms of any of these, or maladaptive behavior;
- b. the observation, description, evaluation, interpretation,

or modification of human behavior by the application of generally recognized professional principles, methods, or procedures requiring the education, training, and clinical experience of a psychologist, for the purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health;

- c. psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;
- d. counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis, and behavior analysis and therapy;
- e. diagnosis and treatment of mental and emotional disorders of disability, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; and
- f. psychoeducational evaluation, therapy, remediation, and consultation.

Utah Code § 58-61-102(9)(a).

2. The Practice of Mental Health Therapy

"Practice of mental health therapy" means the treatment or prevention of **mental illness**, whether in person or remotely, including:

- a. conducting a professional evaluation of an individual's condition of mental health, **mental illness**, or emotional disorder;
- b. establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (6)¹;
- c. prescribing a plan for the prevention or treatment of a condition of **mental illness** or emotional disorder; and
- d. engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (6).

¹ Subsection (6) refers to the Act's definition of "mental health therapist." Utah Code § 58-61-102(6).

Utah Code § 58-61-102(8).

3. Mental Illness

"Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (6).

Utah Code § 58-61-102(7).

Relevant Exemptions:

1. "[A]n individual holding an earned doctoral degree in psychology who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing delivery or supervision of professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services."

Utah Code § 58-61-307(2)(g).

2. "[A]ny individual who was employed as a psychologist by a state, county, or municipal agency or other political subdivision of the state prior to July 1, 1981, and who subsequently has maintained employment as a psychologist in the same state, county, or municipal agency or other political subdivision while engaged in the performance of his official duties for that agency or political subdivision."

Utah Code § 58-61-307(2)(h)

3. "[A]n individual licensed as a school psychologist under Section 53A-6-104:

[a.] may represent himself as and use the terms "school psychologist" or "licensed school psychologist"; and

[b.] is restricted in his practice to employment within settings authorized by the State Board of Education."

Utah Code § 58-61-307(2)(i).